



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/171691

PRELIMINARY RECITALS

Pursuant to a petition filed January 26, 2016, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Care Access and Accountability (DHCAA) to modify a Medical Assistance (MA) authorization for personal care worker (PCW) services, a hearing was held on March 9, 2016, at Madison, Wisconsin, with the parties appearing by telephone.

The issue for determination is whether the DHCAA correctly determined PCW hours.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Written submission of [REDACTED], Nurse Consultant

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 58-year-old resident of Dane County who receives MA.
2. Petitioner has quadriplegia and requires assistance with activities of daily living. On December 2, 2015 the Dane County Dept. of Human Services requests prior authorization for 78.75 hours per week PCW services, PA no. [REDACTED]. By a letter dated December 14, 2015 the DHCAA modified the request to approve 70 hours per week.
3. Petitioner was given maximum daily time for bathing, dressing, grooming, and eating assistance. The DHCAA granted the time requested for emptying ostomy bags, ostomy care, transfers, and range of motion. He also was granted 30 minutes per day for repositioning.

DISCUSSION

Personal care services are “medically oriented activities related to assisting a recipient with activities of daily living necessary to maintain the recipient in his or her place of residence in the community.” Wis. Admin. Code §DHS 107.112(1)(a). Covered services include the following:

1. Assistance with bathing;
2. Assistance with getting in and out of bed;
3. Teeth, mouth, denture and hair care;
4. Assistance with mobility and ambulation including use of walker, cane or crutches;
5. Changing the recipient's bed and laundering the bed linens and the recipient's personal clothing;
6. Skin care excluding wound care;
7. Care of eyeglasses and hearing aids;
8. Assistance with dressing and undressing;
9. Toileting, including use and care of bedpan, urinal, commode or toilet;
10. Light cleaning in essential areas of the home used during personal care service activities;
11. Meal preparation, food purchasing and meal serving;
12. Simple transfers including bed to chair or wheelchair and reverse; and
13. Accompanying the recipient to obtain medical diagnosis and treatment.

Wis. Admin. Code, §DHS 107.112(b).

Personal care workers can spend no more than one-third of their time performing housekeeping activities. Like all medical assistance services, PCW services must be medically necessary and cost effective. Wis. Admin. Code, §DHS 107.02(3)(e)1 and 3.

The DHCAA now utilizes a Personal Care Screening Tool, a computer program it believes will allow it to consistently determine the number of hours required by each recipient. The screening tool allots a specific amount of time in each area the recipient requires help, which the DHCAA’s reviewer can then adjust to account for variables missing from the screening tool’s calculations.

As noted, petitioner was granted substantial daily time for his numerous cares. It appears that everything was granted except for additional time for complex repositioning. As it is, the DHCAA granted 30 minutes daily for repositioning. Nurse [REDACTED] points out in her February 1, 2016 case summary that petitioner has a power wheelchair that allows him to reposition independently. Striking to me is that the although petitioner testified that he is repositioned 16 times per day, the PCW screening tool filled out by his provider says he is repositioned 6 times per day. At a rate of five minutes per time that would amount to 30 minutes per day. Part of the discrepancy is that petitioner also is transferred a number of times per day so repositioning would be part of the transfer task.

I conclude that the DHCAA authorization was correct based upon the screen as it was done. As noted, everything was granted to the maximum, and in fact it is difficult for me to see how the screener ended up requesting 78.75 hours per week. If any statement in the screen was incorrect the agency can always file an amendment, but at this point I cannot find a basis for increasing the authorized hours.

CONCLUSIONS OF LAW

The DHCAA correctly modified the requested PCW hours based upon the provisions of the personal care screen.

THEREFORE, it is

ORDERED

That the petition for review is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

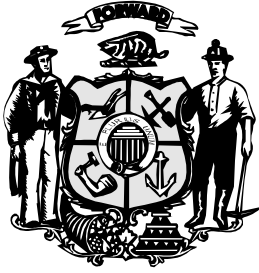
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 18th day of March, 2016

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on March 18, 2016.

Division of Health Care Access and Accountability